

FISCAL NOTE
HB 31 - SB 49
FIRST EXTRAORDINARY SESSION

April 16, 1999

SUMMARY OF BILL: Removes the following sales tax exemptions outlined in TCA Title 67, Chapter 6, Part 3, Agricultural products sold directly by a farmer or nurseryman, aircraft parts and supplies and property leased by an airport authority, automobiles sold to non-resident military personnel, sales of human blood or plasma, demonstration or display property, transfer of an automobile between spouses as a result of a divorce decree, energy ore resource recovery facilities for the portion of consideration used to satisfy indebtedness to the state, rental for films to theaters and rental for films transcriptions and recordings to radio and television stations operating under a certificate from the FCC, sales at gun shows sponsored by non-profit organizations of gun collectors, construction machinery transferred between parent and subsidiary corporations, insulin and syringes, articles moving in interstate commerce and repairs made in the state on such articles, medical equipment and devices for handicapped persons such as artificial limbs and wheel chairs, tangible person property used by optometrists, opticians, and ophthalmologists and their fees charged to patients, ostomy products, oxygen, pharmaceutical samples, prescription drugs, replacement parts or goods, property sold to telephone cooperatives, property sold to commercial marine vessels, property sold to watershed districts, gasoline on which the state motor vehicle gallonage tax has been paid or gasoline used for agricultural products, motor vehicle fuel on which the state motor vehicle gallonage tax has been paid, seeds seedlings plants grown from seed and cuttings which produce food or fiber for human or animal consumption and fertilizer and pesticides used for such plants, livestock and poultry feed livestock wormers livestock medications and instruments used for the administration of medication, any natural or artificial substance used in the reproduction of livestock, agri-sawdust, the first \$500 of the price of a casket or burial vault, school books and lunches, sales made to the state a county or municipality, liquefied gas, newspapers and periodicals, fertilizers pesticides containers for farm products adjuvant and surfactants solutions to mix with insecticides and pesticides sold directly to nurseryman, parking privileges sold by colleges and universities, materials used for the lining or protective coating of railroad tank cars, chemicals and supplies used in air and water pollution control facilities, the portion of sales of United States and state flags sold by a non-profit organization equal to consideration paid by the non-profit organization, events or activities held for or sponsored by public or private schools in grades K-12, Admissions to and entrance fees for county and agricultural fairs, the first \$150 per member per year of membership fees of a recreation club or community service organization, membership application fees dues and contributions except that portion attributable to admissions prices, membership fees or dues of organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, gross proceeds derived from admissions to amusement or recreations activities conducted by non-profit museums and historical societies non-profit entities under the Internal Revenue Code, fees resulting from the production of television film radio or theatrical presentations, events conducted upon rivers and waterways whose continued use is contingent on revenue produced pursuant to agreements between the state and the federal government, receipts from coin-operated amusement devices, athletic events for participants under 18 years of age sponsored by civic or non-profit organizations, admissions to amusement or recreational activities conducted by counties or municipalities, membership assessments for capital improvements made by a recreational club community service organization or country club, admissions to beauty pageants and rodeos, admissions to musical concerts produced by non-profit community group association, any event or activity held by an employer for the benefit of its employees, fishing tournament registration fees, dues membership application fees admission fees and rental charges paid to a health club, entry fees or charges for a contest tournament or charity horse show, charges made by landowners for permission to hunt wildlife on their land in Franklin county, the fee paid by a restaurant for the purpose of

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providing live entertainment, transfers by dealers in personal property of motor vehicles used by common carriers, property or services contributed to any municipal or county utility electric cooperatives or electric membership corporation, charges by taxidermists, energy for residential use, used factory-manufactured structures, sales paid for with food stamps, sales paid for with vouchers from the Special Supplemental Food Program for Women, Infants, and Children, products sold to or used by structural metal fabricators, railroad track materials and locomotive radiators, charges by local exchange carriers to interexchange carriers and long distance resellers and charges made by local exchange carriers to cellular telephone companies, motor vehicles purchased but not registered or titled in this state and removed to another state within three days of purchase, direct mail advertising from outside the state, retail sale of boats and motorboats that are subject to registration and identification in this state, credit for tax paid to bring the purchaser into compliance with pollution control laws, all repair services to helicopters used for medical evacuation or transport, retail sale of used clothing, petroleum products sold to air common carriers for flights outside the United States, services rendered between parent corporations and wholly-owned subsidiaries, legend drugs used by veterinarians, property used by pharmacies and home health care providers, adaptive equipment for motor vehicles provided to disabled veterans, design professionals' sketches drawings and models, credit for tax by any special contractor for materials used by fire protection sprinkler contractors, property used by dentists. The following items will remain exempt from the sales and use tax: 1) The sale or lease of tangible personal property or services to the United States. 2) Property or services sold, given or donated to a religious, educational or charitable institution. 3) Sales paid for with food stamps. 4) Sales paid for with vouchers from the Special Supplemental Food Program for Women, Infants, and Children. The bill would also include all farm equipment and machinery for sales tax purposes regardless of the retail price. Under existing law, "farm equipment and machinery" is exempt from sales and use tax if it has a retail price greater than \$250. The bill would also amend the definition of "industrial machinery" to include all such machinery regardless of cost and would subject this machinery to sales and use tax. Under existing law, "industrial machinery" is exempt from sales and use tax if such machinery is necessary to and primarily for remanufacturing industrial machinery when used by one whose principal business is that of remanufacturing industrial machinery, if the cost of such machinery exceeds \$1,000. The bill would also eliminate the following reduced rates and credits: 1) The reduced rate of 3% on the gross proceeds from the retail sale of manufactured homes. 2) The reduced rate of 4.5% on aviation fuel. 3) The reduced rate of 1.5% on electricity, liquefied gas, coal, wood and energy fuel used by farmers and nurserymen in the production of crops or food. 4) The reduced rate of 3.75% on sales of property to common carriers for use outside this state. 5) The tax credit of all but 0.5% of sales and use tax on the sale or use of building materials, machinery, and equipment used in qualified new or expanded headquarters facilities. 6) The reduced rate of 3% on the portion of the sale price of an aircraft in excess of \$100,000. The bill would extend the franchise and excise tax to partnerships, Limited Liability Partnerships, Limited Liability Companies, Limited Partnerships, and sole-proprietorships. Adds to the net earnings of a taxpayer an amount equal to the compensation paid to employees which exceeds \$72,000. Extends the franchise and excise tax to trusts, estates, and rental real estate that previously was not taxed. Reduces the state sales tax from 6% to 3%. Reduces the maximum local tax rate from 2.75% to 1.375%. Apportions an additional amount to local governments totaling the amount they would have received, if the sales tax rates had not been reduced from 2.75% to 1.375%. The bill has an effective date of July 1, 1999.

ESTIMATED FISCAL IMPACT:

Decrease State Revenues - Net Impact - \$845,625,000

Increase State Expenditures - Dept. of Revenue:

\$3,000,000 Recurring

\$2,000,000 One-Time

Increase Local Govt. Revenues - Net Impact - \$250,000,000

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Estimate assumes the following:

- The estimated increase in state revenues resulting from the extension of the franchise and excise tax is approximately \$450,000,000.
- Bill contains an earnings exemption level of \$72,000 for business entities.
- Partnerships will distribute a significant amount of earnings to partners reducing their net earnings for excise tax purposes significantly.
- Sole proprietorships will pay the 6% excise tax on most net earnings.
- Bill eliminates the use of pass through entities as a method to evade franchise and excise taxes.
- Removal of certain sales tax exemptions is estimated to increase state revenues by approximately \$950,000,000 and increase local government revenues approximately \$250,000,000.
- A reduction of the state sales tax from 6% to 3% is estimated to decrease state revenues approximately \$2,155,800,000.
- A reduction in local option sales tax from 2.75% to 1.375% is estimated to decrease local government revenues approximately \$89,825,000.
- Maintaining the current apportionment formula for local government sales taxes of 2.75% after the rate has been lowered to 1.375% is estimated to decrease state revenues approximately \$89,825,000 and increase local government revenues approximately \$89,825,000.
- An increase in state expenditures of approximately \$5,000,000, in the Department of Revenue, resulting from implementation of a new tax structure.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director